

AGENDA ITEM

NOVEMBER 54-133

Member Request for Adjustment to Fees
and/or Penalties/Waivers (Subcommittee
Membership Fee Waivers)

DATE: October 25, 2010

TO: Board Committee on Member Oversight (MOC)
Board of Governors

FROM: Subcommittee Membership Fee Waivers
Clark E. Gelbach
Karen M. Goodman
Luis J. Rodriguez

SUBJECT: Members' Request for Adjustments to Fees and Penalties that Have Been
Considered by the Subcommittee Membership Fee Waivers, Who Deemed that
Good Cause Exists to Grant the Requests

EXECUTIVE SUMMARY

Members may request that adjustments be made to their membership fees and penalties. Title Two, Rule 2.16 (H) of the Rules of the State Bar requires the Board to find that good cause exists to grant requests for waivers that were denied by staff and authorizes the Board to consider all other requests for waivers. This item consolidates several member requests for which the Subcommittee Membership Fee Waivers have determined that good cause exists to recommend fee adjustments. Board members with questions or concerns may contact Dina DiLoreto, 415/538-2121 or dina.diloreto@calbar.ca.gov.

ISSUE

Do the Board Committee on Member Oversight (MOC) and the Board of Governors agree with the recommendations of the Subcommittee Membership Fee Waivers that good cause exists to grant the requests for fee adjustments for the State Bar member(s) listed below? MOC and the Board of Governors may deny or agree **in whole** or **in part** with any of the Subcommittee's recommendations.

BACKGROUND

Rule 2.16 of Title Two of the Rules of the State Bar of California provides for waiver of annual membership fees and penalties. Rule 2.16 (C) specifies circumstances where staff may grant a member's request for waiver of up to \$1,000 in annual membership fees and penalties for the year in which they are due. Rule 2.16 (H) provides that the Board of Governors reserves the right to grant requests for waivers denied by staff if good cause exists, and to consider requests that fall outside of staff's authorization for granting a waiver of fees and penalties. Traditionally, Board members who are appointed as members of the Subcommittee Membership Fee Waivers have reviewed the waiver requests that come under Rule 2.16 (H) and have made recommendations to MOC and the Board of Governors where the Subcommittee determined that good cause exists to recommend adjustments.

In assessing what constitutes good cause for purposes of determining whether or not the Board of Governors should grant a fee waiver, the member's justifications for a fee waiver should be weighed against the public policy reasons for imposing annual membership fees. The primary public policy reason for imposing State Bar membership fees is to provide funding for an effective attorney regulatory system that protects the public and eases the burdens on the courts. The system is funded solely through the imposition and collection of annual fees. For this reason, membership fee waivers should not be granted as a matter of course, but rather should be limited to compelling, exigent situations where the member did not contribute to the cause of the failure to pay full fees.

SUBCOMMITTEE MEMBERSHIP FEE WAIVER RECOMMENDATIONS

The following member(s) have requested adjustments to their annual State Bar membership fees. Staff has reviewed these requests and established that they do not meet the qualifications for staff waivers (See Rule 2.16 (C)), or the amounts are greater than \$1,000. The requests that are less than \$1,000 have been reviewed and denied by staff, and the member(s) have appealed to the Subcommittee Membership Fee Waivers. The Subcommittee has determined that good cause exists to recommend the adjustments.

David S. Warner (#181357) Admitted December 27, 1995. Member is currently on Inactive status. Member is submitting request with wife Chelsie Adams (#220211). Member is requesting a full waiver and refund of his 2010 membership fees. Member's request is based on financial hardship caused by job loss and the birth of triplets. Member's 2009 joint earnings with wife exceed income requirements for financial hardship waiver. Member has submitted a letter of explanation, earnings and leave statement, financial declaration, and copy of 2009 Income Tax Return

Recommendation: Waive 2010 Inactive membership fees and issue member a refund in the amount of \$125.

Chelsie Adams (#220211) Admitted June 18, 2002. Member is currently on Inactive status. Member is submitting request with husband David Warner (#181357). Member is requesting a full waiver and refund of her 2010 membership fees. Member's request is based on financial hardship caused by husband's job loss and the birth of triplets. Member has submitted a letter of explanation, earnings and leave statement, financial declaration, and copy of 2009 Income Tax Return.

Recommendation: Waive 2010 Inactive membership fees and issue member a refund in the amount of \$125.

FISCAL IMPACT

This is the fourth Subcommittee Membership Fee Waivers request submitted for membership year 2010. This item contains two recommendations. If the recommended adjustments below are approved, the year to date fiscal impact will be \$5,396.93.

BOARD BOOK/ADMINISTRATIVE MANUAL IMPACT

There is no impact on the Board Book/Administrative Manual.

RECOMMENDATIONS AND RESOLUTIONS

Should the Board Committee on Member Oversight concur with each recommendation of the Subcommittee Membership Fee Waivers, it would be in order to adopt the following resolutions:

RESOLVED, that the Board Committee on Member Oversight hereby recommends that the Board of Governors approve the fee adjustments for the following State Bar members as noted below:

David Warner: Waive 2010 Inactive membership fees and issue member a refund in the amount of \$125.

Chelsie Adams: Waive 2010 Inactive membership fees and issue member a refund in the amount of \$125.

PROPOSED BOARD RESOLUTIONS

Should the Board of Governors concur with each recommendation of the Committee on Member Oversight, it would be in order to adopt the following resolutions:

RESOLVED, upon recommendation of the Committee on Member Oversight, that the Board of Governors hereby approves the fee adjustments for the following State Bar member(s) as noted below:

David Warner: Waive 2010 Inactive membership fees and issue member a refund in the amount of \$125.

Chelsie Adams: Waive 2010 Inactive membership fees and issue member a refund in the amount of \$125.